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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,086	12/30/2003	Thomas Conrad	30691/MEY5102	6874

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EXAMINER

KOSLOW, CAROL M

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,086

Applicant(s)

CONRAD ET AL.

Examiner

C. Melissa Koslow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14, 28, 29 and 32-35 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 15-27, 30 and 31 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no teaching in the specification that the amount of claimed stabilizing amount of CaO in claims 12, 13, 25 and 26. There is no teaching in the specification of size fraction and surface area in claim 27.

Claims 1-14, 28, 29 and 32-35 are allowable over the cited art of record.

Claim 27 is objected to as being dependent upon an objected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

There is no teaching or suggestion of the claimed glass-ceramic powder, glass-ceramic, the method for making the glass-ceramic and dental products and dental material containing the claimed glass-ceramic are not taught or suggested by the cited art of record.

U.S. patent 4,978,640 teaches a dispersion strengthened glass composite which contains nanosized metal oxides, but there is no teaching or suggestion in the art to replace the taught glass with a leucite glass-ceramic. U.S. patent 5,698,019 teaches a leucite glass-ceramic which contains a nanosized second phase, but the taught nanosized second phase contain phosphorous,

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which means it is not a metal oxide. U.S. patent application publication 2004/0121894 teaches a leucite glass-ceramic containing a refractory filler phase, but since the taught filler must have a refractive index similar to the rest of the composition, it has a particle size greater than 300 nm. This reference also teaches forming a glass-ceramic from mixing a glass frit and a leucite glass-ceramic frit, but the that size distribution is such that there is no motivation to include nanosized particles as a dispersion strengthening additive, as taught by U.S. patent 4,978,640.

Claims 15-26, 30 and 31 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 2-13, 28 and 29. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

The doped glass-ceramic produced from the powder of claim 1 is the same as the glass-ceramic of claim 2 as indicated by the process of claim 32 and the teachings on page 4, lines 14-20.

This application is in condition for allowance except for the above formal matters.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached at (571) 272-1362.

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The fax number for all official communications is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cnk
February 11, 2005


C. Melissa Koslow
Primary Examiner
Tech. Center 1700